

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DANHUI ZHENG,

Plaintiff,

v.

No.

**RICHARD CHARLES WALKER,
GRANT LEASING, LLC,
DAVE GRANT HAY INCORPORATED,
GRANT TRUCKING, LLC,
DAVE R GRANT COMPANIES, and
NATIONAL INTERSTATE INSURANCE COMPANY,**

Defendants.

**NOTICE OF REMOVAL TO THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO**

COME NOW Defendants Richard Charles Walker, Grant Leasing, LLC, Dave Grant Hay Incorporated, Grant Trucking LLC, Dave R Grant Companies, and National Interstate Insurance Company, by and through their attorneys of record, Butt Thornton & Baehr PC (Charles B. Kraft), and respectfully petitions the Court, pursuant to 28 U.S.C. §1332 and 28 U.S.C. §1441, for the removal of this action from the Second Judicial District Court, County of Bernalillo, State of New Mexico, to the United States District Court for the District of New Mexico on the following grounds:

1. Plaintiff filed this civil action against Defendants in the Second Judicial District Court, County of Bernalillo, State of New Mexico, Case No. D-202-CV-2022-01727. Plaintiff's *Complaint For Negligence and Other Claims* (hereafter "the Complaint") was filed on March 31, 2022. Defendant National Interstate Insurance Company was served with the Complaint on May 9, 2022. Defendant Richard Charles Walker has not yet been served with the Complaint.

Defendants Grant Leasing, LLC, Dave Grant Hay Incorporated, Grant Trucking LLC, Dave R Grant Companies were served with the Complaint on May 5, 2022.

2. Pursuant to D.N.M. LR-CIV 81.1(a), a copy of the Complaint, along with copies of all records and proceedings, are attached hereto as Exhibit A.

3. According to the Complaint, filed March 31, 2022, Plaintiff is a resident of the State of California. *See* Complaint at ¶5.

4. Defendant Richard Charles Walker is a resident of the State of Utah. *See* Complaint at ¶7.

5. Defendant Grant Leasing, LLC is a Utah limited liability corporation, with its principal place of business being in the State of Utah, and is therefore, a citizen of the State of Utah. *See Complaint* at ¶11–12. Defendant Grant Leasing, LLC may be served through its agent located in Utah. *Id.*

6. Defendant Dave Grant Hay Incorporated is a Utah corporation, with its principal place of business being in the State of Utah, and is therefore, a citizen of the State of Utah. *See* Complaint at ¶18–19. Defendant Dave Grant Hay Incorporated may be served through its agent located in Utah. *Id.*

7. Defendant Grant Trucking LLC is a Utah limited liability corporation, with its principal place of business being in the State of Utah, and is therefore, a citizen of the State of Utah. *See* Complaint at ¶25–26. Defendant Grant Trucking LLC may be served through its agent located in Utah. *Id.*

8. Defendant Dave R Grant Companies is the shorthand designation for Defendants Dave Grant Hey Incorporated and Grant Trucking LLC. Defendant Dave R Grant Companies is

not an entity. Both Dave Grant Hey Incorporated and Grant Trucking LLC are Utah entities with their principal place of business being in Utah. *See* ¶¶6–7, *supra*.

9. Defendant National Interstate Insurance Company is an Ohio corporation with its principal place of business in Ohio, and is therefore, a citizen of the State of Ohio. *See* Complaint, ¶41.

10. As such, complete diversity of citizenship exists between Plaintiff and the Defendants.

11. The Complaint, pursuant to the New Mexico Rules of Civil Procedure, contains no allegation for damages in a specific monetary amount. Accordingly, counsel for Defendants has conferred with counsel for Plaintiff, who affirmed in writing the amount in controversy exceeds \$75,000.

12. Although the Defendants do not admit Plaintiff has been damaged in any amount as the result of any acts or omissions on their part, the amount in controversy exceeds \$75,000.00 in value exclusive of interest and costs.

13. The United States District Court, therefore, has original jurisdiction over the Summons and Complaint under 28 U.S.C. §1332(a) as the matter in controversy exceeds \$75,000.00 in value, exclusive of interest and costs, and this action is between citizens of different states. Diversity jurisdiction has existed from the time the Plaintiff filed his Complaint of this action in state court through the time of the filing of this Petition. 28 U.S.C §1446(b)(3).

14. Because this Court has original jurisdiction over this action under 28 U.S.C. §1332(a), this action is removable pursuant to 28 U.S.C. §§1441(a).

15. The state court in which this action was commenced is within this Court's district. Venue is therefore proper under 28 U.S.C. §§111 and 1441(a).

16. The Notice of Removal was filed with this Court within thirty (30) days after Defendant National Interstate Insurance Company was served with Plaintiff's Complaint. Pursuant to 28 U.S.C §1446(b)(2)(C), Defendants Grant Leasing, LLC, Dave Grant Hay Incorporated, Grant Trucking LLC, Dave R Grant Companies, and Richard Charles Walker consent to the removal.

17. Defendants, immediately upon the filing of this Notice of Removal, gave written notice of the filing to Plaintiff as required by 28 U.S.C. §1446(d) and filed a copy of this Notice of Removal with the Clerk of the Second Judicial District Court, County of Bernalillo, State of New Mexico, the Court from which this action is removed.

18. This Notice of Removal is signed pursuant to Fed. R. Civ. P. 11.

WHEREFORE, Defendants Richard Charles Walker, Grant Leasing, LLC, Dave Grant Hay Incorporated, Grant Trucking LLC, Dave R Grant Companies, and National Interstate Insurance Company request the above-entitled action be removed from the Second Judicial District Court, County of Bernalillo, State of New Mexico, to this United States District Court for the District of New Mexico.

Respectfully Submitted,

BUTT THORNTON & BAEHR PC

/s/ Charles B. Kraft

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Attorneys for Defendants Richard Charles Walker, Grant Leasing, LLC, Dave Grant Hay Incorporated, Grant Trucking LLC, Dave R Grant Companies, and National Interstate Insurance Company

I HEREBY CERTIFY that on the 7th day of June 2022, I filed the foregoing electronically through the CM/ECF system, and that a true and correct copy of same was e-mailed to the following counsel:

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/s/ Charles B. Kraft

Charles B. Kraft